1 EDMUND G. BROWN JR. Attorney General of California 2 GLORIA A. BARRIOS Supervising Deputy Attorney General 3 LANGSTON M. ÉDWARDS Deputy Attorney General 4 State Bar No. 237926 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 620-6343 6 Facsimile: (213) 897-2804 Attornevs for Complainant 7 BEFORE THE BOARD OF REGISTERED NURSING 8 DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA 9 10 Case No. 2011-141 In the Matter of the Accusation Against: 11 PAULA FRITZ URSCHEL 12 P.O. Box 3433 ACCUSATION Santa Barbara, CA 93130 13 Registered Nurse License No. 225482 14 Respondent. 15 16 17 Complainant alleges: **PARTIES** 18 Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her 19 1. official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"), 20 21 Department of Consumer Affairs. On or about July 31, 1972, the Board issued Registered Nurse License Number 22 225482 to Paula Fritz Urschel ("Respondent"). The registered nurse license was in full force and 23 effect at all times relevant to the charges brought herein and will expire on September 30, 2011, 24 25 unless renewed. 26 // 27 -28 1

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 5. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question."

- 6. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 7. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

2.6

8. Code section 2761 states, in pertinent part:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct, which includes, but is not limited to, the following:
- (f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
 - 9. Code section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

- 11. Respondent is subject to discipline pursuant to Code section 2761, subdivision (f), in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a registered nurse.
- a. On or about January 20, 2009, Respondent was charged with multiple criminal counts pursuant to arrest, including Pen. Code section 245(a)(1)[assault with personal use of a deadly weapon], Pen. Code section 243(d)[battery with serious bodily injury], Veh. Code section 23152(a)[driving under the influence of alcohol] and Veh. Code section 23152(b)[driving while having .08% or higher blood alcohol concentration]. It was further alleged that Respondent had a blood alcohol content of .15% at the time of her arrest while operating a vehicle. On or about June 11, 2009, after pleading nolo contendre Respondent was convicted of one misdemeanor count of violating Veh. Code section 23152(b) [driving with blood alcohol concentration of .08% or more] in the criminal proceeding entitled *The People of the State of California v. Paula Fritz Urschel* (Super. Ct. County of Santa Barbara, 2009, No. 1293289). Respondent was sentenced to 7 days of jail and 3 years of probation, with terms and conditions. Respondent was also ordered to complete a three-month First Offender alcohol and drug counseling program. Respondent was ordered to pay \$1,745.00 in fines, fees and restitution.
- b. The underlying circumstances occurred on or around January 17, 2009 when Santa Barbara County Deputies were dispatched to Respondent's home and were informed that Respondent had recently attacked her daughter using a large metal flashlight. When deputies arrived at the scene, Respondent's daughter was covered in blood, had a chipped tooth, lacerations on her face, head and other parts of her person and bits of hair missing. While the sheriffs were speaking with Respondent's daughter, Respondent got into her car and attempted to drive away, nearly striking a deputy with her vehicle before being ordered to stop at gun point. When the deputies contacted the Respondent, they observed that Respondent had "trouble

DATED:

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 225482, issued to Paula Fritz Urschel;
- 2. Ordering Paula Fritz Urschel to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
 - 3. Taking such other and further action as deemed necessary and proper.

8/18/10

LOUISE R. BAILEY, M.ED., R.N.

Interim Executive Officer Board of Registered Nursing

State of California Complainant